

**UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

THE U.S. SMALL BUSINESS. )  
ADMINISTRATION, )  
                          ) CASE NO.: 5:20-CV-02711-JRA  
Movants/Appellants, )  
                          )  
vs.                    ) JUDGE JOHN R. ADAMS  
                          )  
WEATHER KING HEATING & AIR, INC. )  
                          )  
                          )  
Respondent/Appellee )

**WEATHER KING HEATING & AIR, INC.'S  
MOTION FOR SUMMARY JUDGMENT**

Respondent/Appellee, Weather King Heating & Air, Inc. (“Weather King”) respectfully moves this Court for entry of an order granting summary judgment to it on all of its claims set forth in its Complaint. Specifically, the Court should determine that the Movants/Appellants, the U.S. Small Business Administration and its Administrator Jovita Corranza’s (collectively the “SBA”) agency action of enacting a rule disqualifying Weather King from participating in the Payroll Protection Program (“PPP”) of The Coronavirus Aid, Relief, and Economic Security (the “CARES Act”) is unlawful under the judicial review provisions of the Administrative Procedure Act (the “APA”) and set it aside because: it exceeds the SBA’s statutory authority, it represents arbitrary and capricious rulemaking, amounts to impermissible retroactive rulemaking as applied to the Respondent/Appellee, and violates 11 U.S.C. 525(a).

This Motion is more fully supported by its Memorandum in Support and the incorporated declaration of Rajbinder Rai that is submitted with respect to the Debtor’s retroactive rulemaking claim and Respondent/Appellee’s motion requesting the court to take judicial notice.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2021, a copy of the foregoing was served electronically via ECF as follows:

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